

SAMUELS AND NORTHROP CO., LPA

ATTORNEYS AT LAW

180 EAST BROAD STREET, SUITE 816
COLUMBUS, OHIO 43215

TELEPHONE: 614 464-3232
TELECOPIER: 614 464-0709

FEDERAL EXPRESS DELIVERY

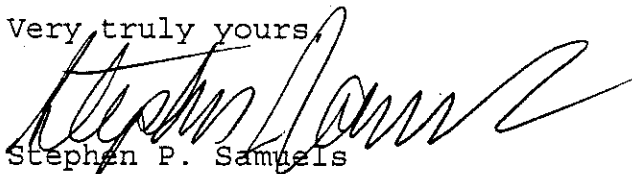
October 13, 1993

Regional Hearing Clerk (MFA-10J)
U.S. Environmental Protection Agency
Region V
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Re: Complaint and Notice of Opportunity for Hearing
for Marion Steel Company, Marion, Ohio
Docket No. TSCA-V-C-087 (1993)

Enclosed for filing is an answer and request for hearing in
the referenced matter. Please return a time-stamped copy to me.

Very truly yours,



Stephen P. Samuels

SPS/bap

Enclosure

cc: Scott Conway (with enclosure)
Jeffery M. Trevino,
Assistant Regional Counsel (with enclosure)
John Love (without enclosure)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

IN RE:) DOCKET NO. TSCA-V-C-087 (1993)
)
THE MARION STEEL COMPANY,)
MARION, OHIO,)
)
RESPONDENT.)

ANSWER (HEARING REQUESTED)

In response to the Complaint in this matter, Respondent Marion Steel Company answers as follows:

1. Paragraph 1 of the Complaint contains allegations of law to which no answer is required.
2. Respondent is without knowledge or information sufficient to form a belief as to the truth of the factual allegations in paragraph 2 of the Complaint.
3. Respondent admits the allegations in paragraph 3 of the Complaint.
4. Respondent is without knowledge or information sufficient to form a belief as to the truth of the factual allegations in paragraph 4 of the Complaint.
5. In response to paragraph 5 of the Complaint, Respondent admits that it is a "person" and states that it is subject to some, but not all, of the requirements and prohibitions set forth in 40 C.F.R. Part 761.
6. Respondent admits the allegations in paragraph 6 of the Complaint.
7. Respondent admits the allegations in paragraph 7 of the Complaint.

8. Respondent admits the allegations in paragraph 8 of the Complaint, except that Respondent denies, for lack of sufficient knowledge or information, the allegation that the persons who inspected the facility were representatives of the U.S. EPA. The field citation issued by the inspector indicates that she is employed by the Ohio EPA.

9. Respondent admits the allegations in paragraph 9 of the Complaint.

10. Respondent admits the allegations in paragraph 10 of the Complaint.

11. Respondent admits the allegations in paragraph 11 of the Complaint.

12. Respondent admits the allegations in paragraph 12 of the Complaint.

13. Respondent admits the allegations in paragraph 13 of the Complaint.

14. In response to paragraph 14, Respondent incorporates by reference its answers to paragraphs 1 through 13 of the Complaint.

15. Paragraph 15 of the Complaint contains allegations of law to which no answer is required.

16. Respondent denies the allegations in paragraph 16 of the Complaint.

17. Respondent denies the allegations in paragraph 17 of the Complaint.

18. In response to paragraph 18, Respondent incorporates by reference its answers to paragraphs 1 through 13 of the Complaint.

19. Paragraph 19 of the Complaint contains allegations of law to which no answer is required.

20. Respondent denies the allegations in paragraph 20 of the Complaint.

21. Respondent denies the allegations in paragraph 21 of the Complaint.

22. In response to paragraph 22, Respondent incorporates by reference its answers to paragraphs 1 through 13 of the Complaint.

23. Paragraph 23 of the Complaint contains allegations of law to which no answer is required.

24. Respondent denies the allegations in paragraph 24 of the Complaint.

25. Respondent denies the allegations in paragraph 25 of the Complaint.

26. In response to paragraph 26, Respondent incorporates by reference its answers to paragraphs 1 through 13 of the Complaint.

27. Paragraph 27 of the Complaint contains allegations of law to which no answer is required.

28. Respondent denies the allegations in paragraph 28 of the Complaint.

29. Respondent denies the allegations in paragraph 29 of the Complaint.

30. In response to paragraph 30, Respondent incorporates by reference its answers to paragraphs 1 through 13 of the Complaint.

31. Paragraph 31 of the Complaint contains allegations of law to which no answer is required.

32. Respondent denies the allegations in paragraph 32 of the Complaint.

33. Respondent denies the allegations in paragraph 33 of the Complaint.

34. In response to paragraph 34, Respondent incorporates by reference its answers to paragraphs 1 through 13 of the Complaint.

35. Paragraph 35 of the Complaint contains allegations of law to which no answer is required.

36. Respondent admits the allegations in paragraph 36 of the Complaint.

37. Respondent admits the allegations in paragraph 37 of the Complaint.

38. Respondent admits that it did not file EPA Form 7710-53 prior to April 4, 1991, and denies all other allegations in paragraph 38.

39. Respondent denies the allegations in paragraph 39 of the Complaint.

40. Respondent denies all allegations not expressly admitted.

CIRCUMSTANCES AND ARGUMENTS THAT
CONSTITUTE THE GROUNDS OF DEFENSE

COUNTS I THROUGH IV

41. Respondent contends that it had developed and maintained complete records, and did have complete documents regarding the disposition of PCB items for 1983-1988, 1989, 1990 and 1991.

42. It appears to the Respondent that, in major part, the basis for Counts I through IV is the fact that its records did not correspond to the "Suggested Format" for the PCB Annual Document. Respondent was not provided the "Suggested Format" until the November 30/December 1, 1992 inspection.

43. On July 7, 1989, Respondent's facility was inspected and cited for violating 40 C.F.R. Section 761.180(a) for the period 1983-1988. In response to that citation, Respondent prepared updated records that it believed brought it into compliance with this section (and other sections noted in the field citation) and mailed those records to the TSCA inspector. No feedback was received from the Agency. Accordingly, Respondent assumed that the form and contents of its documents were satisfactory.

44. The penalties assessed are greater than the penalty policy dictates. First, the "circumstance" (probability of damages) of the violations are small and the "extent of potential

*See if any feedback
on annual documents!
AD not required
to be in EIS
suggested format
but must
contain info
on 761.180(a).*

*Small amount
to be paid to
L-6 3/8
P-9450
(#1200+50%)*

damage" is minor. Second, the penalty policy suggests that separate counts should not be charged and multiple penalties should not be assessed for these violations because they represent multiple infractions of the same regulatory requirement.

*Do not agree
with 13. Policy
states specifically
to assess
separate counts.*

COUNT V

45. No cardboard box was stored within five meters of the transformer cited in paragraph 32 of the Complaint. Although a wooden pallet was located within five meters of the transformer, it was not "stored" there, nor is it a "combustible material."

COUNT VI

46. The regulation cited as the basis for the violation, 40 C.F.R. Section 761.205(a)(2), does not apply to Respondent for the reason that it is not a "generator . . . who first engaged in PCB waste handling activities after February 5, 1990." (Emphasis added.)

47. Although Respondent did not file EPA Form 7710-53 until June 21, 1993, EPA (and other concerned agencies) were aware, in fact, of Respondent's "PCB waste handling activities." (Please refer to attached documents.)

48. Although Subpart K of 40 C.F.R. Part 761 was adopted in December, 1989, Respondent did not become aware, in fact, of the requirements of 40 C.F.R. Section 761.205 until the inspector provided it with a copy of Form 7710-53 on January 12, 1993. The Respondent did not engage in any "PCB waste handling activities" subsequent to that date until it filed EPA Form 7710-53.

49. The PCB wastes identified in paragraph 36 of the Complaint were handled by Respondent pursuant to its RCRA generator I.D. number, on the belief that that was the only notification requirement.


50. The penalty assessed for this violation is inconsistent with the penalty policy, and is grossly disproportionate to the gravity of the offense and the culpability of the Respondent.

FACTS WHICH RESPONDENT
INTENDS TO PLACE AT ISSUE

51. Respondent intends to contest those assertions of fact in the Complaint that are denied in this answer and those that are implicit in the Circumstances and Arguments (paragraphs 41 through 50).

Respondent requests a hearing upon the issues raised by the Complaint and Answer.

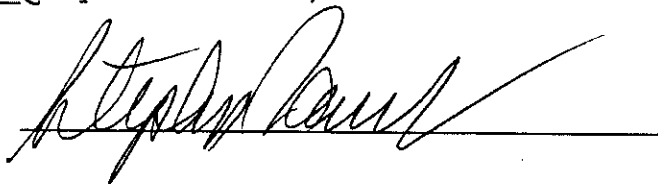
Respectfully submitted,


Stephen P. Samuels (0007979)
Samuels and Northrop Company, LPA
180 East Broad Street, Suite 816
Columbus, Ohio 43215
(614) 464-3232
Attorney for Respondent
Marion Steel Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was delivered by prepaid Federal Express delivery to Regional Hearing Clerk

(MFA-10J), U.S. Environmental Protection Agency, Region V, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590 and by regular United States mail, postage prepaid, to Jeffery M. Trevino, Assistant Regional Counsel (CA-3T), U.S. Environmental Protection Agency, Region V, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, this 13th day of October, 1993.

A handwritten signature in dark ink, appearing to read "Stephen Paul", is written over a horizontal line.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

230 SOUTH DEARBORN ST.

CHICAGO, ILLINOIS 60604

FIELD CITATION

REPLY TO THE ATTENTION OF:

Marion Steel Co.
Facility Name
912 Cheney Ave
Marion OH 43302
Facility Address City, State

Compliance Inspection
Date:

July 7, 1989

* * *

This is a formal notification concerning the compliance inspection conducted at the facility named above, pursuant to Section II of the Toxic Substances Control Act (TSCA), 15 U.S.C. Section 2601 et seq. The purpose of the inspection was to assess the facility's compliance with the requirements of the Polychlorinated Biphenyls (PCB) Final Rule, 40 C.F.R. Part 761, and amendments.

Issuance of this citation and receipt of any documentation does not preclude the U.S. EPA from proceeding under TSCA or any other applicable statute and assessing appropriate penalties. Any enforcement action taken by the U.S. EPA after a final evaluation of the inspection report would not be limited to the violations listed in this citation.

It appears that the above-named facility was not in compliance with the requirements of 40 C.F.R. Part 761. The inspection revealed the following violations:

1. ☒ AUTHORIZATIONS
(Use 761.30)

2. ☒ MARKING
(761.40)

3. ☒ STORAGE
(761.65)

4. ☒ RECORDKEEPING
(761.180)

5. OTHER _____

Comments On Violations Cited Above

761.30(a)(1)(vi) Failed to register PCB transformers with appropriate fire response personnel

761.30(a)(1)(viii) Improperly storing cardboard boxes adjacent to PCB transformer

761.40 Failed to properly label access ways to PCB transformers and PCB storage area

761.65 Failed to store PCB transformer within diked PCB storage area.

761.120(a) Failed to maintain concise annual documents for years 1983 through 1988 and disposal documentation of PCB oil from transformers.

761.30(a)(1)(xii) Failed to maintain quarterly transformer inspection records on all PCB transformers.

CITATION

DOCUMENTATION REQUIRED TO CORRECT THE ABOVE VIOLATION(S)

- 761.30(a)(1)(vi) Copy of PCB transformer registration with appropriate fire personnel
- 761.30(a)(1)(viii) Photograph showing combustible materials removed from PCB transformer vault.
- 761.40~~8~~ Photographs showing access ways to PCB transformers marked M, as well storage area for PCB transformer.
- 761.65 Photograph showing stored PCB transformer in diked, indoor storage area
- 761.180(a) Reconstruction of annual documents for years 1983 through 1988; Submit manifests/destruction documentation for PCB oil removed during retrofilling of two Westinghouse transformers (originally nameplated PCB)

Within thirty (30) days of receipt of this Field Citation this facility must submit the requested documentation to show that the violation(s) has/have been corrected. The documentation must be submitted to:

Inspector's Name Charlotte E. Hammar

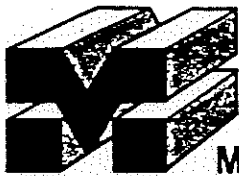
Address 1800 WaterMark Drive P.O. Box 1049

City, State Columbus OH 43266-0149

If you have questions concerning this inspection or this Field Citation, please call the inspector at (614) 644-2260

[Signature] 7/7/89
Issued To/Received By Date

[Signature] 7-7-89
Inspector's Signature Date



MARION STEEL COMPANY

912 CHENEY AVENUE

MARION, OHIO 43302

614-383-4011
FAX: 614-383-6429

March 18, 1991

Ms. Jan Canterbury
United States Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460
T. S. 798

Re: Transformer Reclassification

Dear Jan:

I am requesting a non-PCB contaminated reclassification status for our failed 20 MVA Westinghouse transformer to enable a second party to purchase this unit. This party would then repair and sell the unit to a third party. It is a common policy for electrical equipment repair facilities to protect themselves from any liabilities, thus the second party will not buy this transformer carcass because of its present PCB status.

It is our intention to sell this transformer without the PCB contaminated oil. We will have a licensed facility dispose of this oil according to the EPA regulations.

I feel that this transformer should retain a non-PCB status because of the mild contamination history leading up to the last retro fill or PCB reclamation on November 23. Recently, the oil has been tested at 9 ppm of PCB's. This level is well under the 50 ppm limit and there is no reason that this level would be reached if the transformer would have been in service for the full 90 days at 55° C.

Please let me know if you need any more information or have any further questions.

Thank You,

Scott Conway
Plant Manager



MARION STEEL COMPANY

912 CHENEY AVENUE

MARION, OHIO 43302

614-383-4011
FAX: 614-383-6429

February 22, 1991

Mr. Joseph Merenda
U. S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460
T.S. 798

Re: Transformer Reclassification

Dear Joseph,

I am requesting a waiver to Article 761.30 in order to reclassify a PCB transformer that failed in the plant's main substation on December 20th. The transformer was delivered to the plant in 1968 filled with mineral oil. After several oil reconditionings the oil became PCB contaminated with tested levels under 255 ppm. The most recent analysis prior to the failure showed the PCB level to be 74 ppm. The latest analysis received from the reclaiming service after a reclamation on November 23, 1990 showed a PCB level of 9 ppm. Even though this transformer failed before the 90 day period required for reclassification, the transformer was in service for a total of 28 days at 55° C full load.

The reclassification status of non PCB contaminants is required for a full repair to be made.

I have enclosed the name plate data of the transformer along with a 10 year history of PCB test results for your review. Please contact me if you have any questions or comments pertaining to this matter.

Thank you for your prompt attention to this matter.

Sincerely,


Scott Conway

cc: Jan Canterbury
U. S. EPA

202-382-3972
FAX - 415-7724

→ add enclosure



MARION STEEL COMPANY

912 CHENEY AVENUE

MARION, OHIO 43302

614-383-4011
FAX: 614-383-6429

August 8, 1989

Ms Charlotte Hammar
Ohio EPA
P.O. Box 1049
1800 Watermark Drive
Columbus, Ohio 43266-0149

Dear Ms Hammar,

I wish to inform you of the latest status of our P.C.B. situation at the plant. On August 1, 1989 the Westinghouse (Serial # 1213025) transformer was removed from site by E.M.C. and delivered to the Aptus disposal facility in Coffeyville, KS. The shipment also contained 2-55 gallon drums which contained P.C.B. contaminated soil that was recently removed from below the Main substation capacitor bacnk. (See enclosed manifest)

If you have any questions or comments concerning these matters please feel free to contact me.

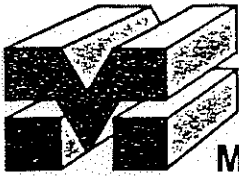
/sb

Sincerely,

Scott Conway
Plant Engineer

cc:
Jim Conway
Larry Eblin
Kelly Sherman

UNIFORM HAZARDOUS WASTE MANIFEST		1. Generator's US EPA ID No.		Manifest Document No.		2. Page 1 of		Information in the shaded areas is not required by Federal law.	
				0570M					
3. Generator's Name and Mailing Address Marion Steel Co 912 Cheney Marion, OH 43430		A. State Manifest Document Number				B. State Generator's ID			
4. Generator's Phone (419) 855 8775		6. US EPA ID Number		C. State Transporter's ID		D. Transporter's Phone		612-859-1675	
5. Transporter 1 Company Name Aptus		M N D 9 8 0 7 9 1 3 2 1							
7. Transporter 2 Company Name		8. US EPA ID Number		E. State Transporter's ID		F. Transporter's Phone			
9. Designated Facility Name and Site Address Aptus P.O. Box 1328/Hwy. 169 North Coffeyville, KS 67337		10. US EPA ID Number		G. State Facility's ID		H. Facility's Phone		316-251-6380	
		X S D 9 8 0 9 6 4 9 9 3							
11. US DOT Description (Including Proper Shipping Name, Hazard Class and ID Number)		12. Containers		13. Total Quantity		14. Unit		15. Waste No.	
		No. Type				Wt/Vol			
a. RQ WASTE HAZARDOUS SUBSTANCE, LIQUID OR SOLID, H.O.S., (POLYCHLORINATED BIPHENYLS) ORM-E NA 9188		101 CM		5650 P					
b. RQ WASTE HAZARDOUS SUBSTANCE, LIQUID OR SOLID, H.O.S., (POLYCHLORINATED BIPHENYLS) ORM-E NA 9188		102 DM		Est 1400 P					
c. RQ WASTE HAZARDOUS SUBSTANCE, LIQUID OR SOLID, H.O.S., (POLYCHLORINATED BIPHENYLS) ORM-E NA 9188									
d. -									
J. Additional Descriptions for Materials Listed Above		K. Handling Codes for Wastes Listed Above							
A. Transformer filled with askeral									
b Drums of debris									
15. Special Handling Instructions and Additional Information									
See Enclosed Contingency Plan Work Order # 35925									
16. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations. If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment; OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.									
Printed/Typed Name		Signature		Month		Day		Year	
Terry Jozinski		[Signature]		10		01		89	
17. Transporter 1 Acknowledgement of Receipt of Materials		Signature		Month		Day		Year	
Printed/Typed Name		[Signature]		10		01		89	
18. Transporter 2 Acknowledgement of Receipt of Materials		Signature		Month		Day		Year	
Printed/Typed Name		[Signature]							
19. Discrepancy Indication Space									
20. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in Item 19.									
Printed/Typed Name		Signature		Month		Day		Year	



MARION STEEL COMPANY

912 CHENEY AVENUE

MARION, OHIO 43302

614-383-4011
FAX: 614-383-6429

July 26, 1989

Ohio EPA
P.O. Box 1049
1800 Watermark Drive
Columbus, Ohio 43266-0149

Atten: Charlotte Hammar

Dear Ms Hammar,


On July 25, 1989 I received your letter regarding the results of the P.C.B. sample testing. Proper procedures were followed and clean-up was complete within a few hours that day. To be sure that the P.C.B.'s are totally removed I have taken two (2) samples of the soil in that area to be sent out for testing. I should have the results in a few weeks.

The two (2) drums of soil collected will be disposed of properly along with our P.C.B. transformer.

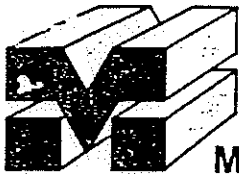
If you have any questions or comments regarding these matters, please feel free to call.

/sb

Very truly yours,


Scott D. Conway
Plant Engineer

cc:
Jim Conway
Larry Eblin
Kelly Sherman



MARION STEEL COMPANY

912 CHENEY AVENUE

MARION, OHIO 43302

614-383-4011
FAX: 614-383-6429

July 21, 1989

Ohio EPA
P.O. Box 1049
1800 Watermark Drive
Columbus, Ohio 43266-0149

Atten: Charlotte Hammar

Dear Mrs. Hammar,

Thank you for your time and patience during our meeting of July 7, 1989. I have to apologize for not having all relevant material on hand and neatly organized. During the past five years all electrical transformer and capacitor documentation was managed by Bob Ogden. Bob left the company in April of this year and subsequently left all records only partially organized.

As you know, the existing documentation is not clear and concise as required by federal regulations and I cannot submit quarterly inspections of P.C.B. contaminated transformers. However, we have documentation of periodic inspection of all plant transformers for leaks and dielectric composition. These tests didn't report any past leaks that would induce harmful effects on the environment.

Enclosed is a current list of all P.C.B. transformers along with associated P.C.B. capacitors for clarification of your records. Our records indicate that these transformers were registered with our local fire department in November of 1985.

I have also enclosed a copy of our quarterly P.C.B. transformer inspection list. This list will be on file and updated quarterly. Also, I have enclosed five photographs of P.C.B. transformer access areas showing appropriate P.C.B. markings. In addition a photograph showing the removal of temporary combustibles placed in the corner of the room for the No. 3 P.C.B. transformer.

The No. 1 P.C.B. transformer (Westinghouse 250KVA, Serial # 1213025) has been on site and out of service prior to 1981 and is presently in process of removal. Hopefully this will be accomplished before the end of August.

Page 2

The Marion Steel Company has no intentions of hiding P.C.B.'s from the E.P.A. and has every intention of complying with proper documentation and disposal regulations. Please feel free to contact me regarding questions or visitations you might have in the future.

/sb

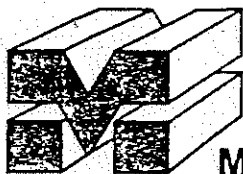
Very Truly Yours,



Scott Conway
Plant Engineer

cc:

Jim Conway
Larry Eblin
Kelly Sherman



MARION STEEL COMPANY

912 CHENEY AVENUE

MARION, OHIO 43302

614-383-4011
FAX: 614-383-6429

July 18, 1989

Marion Fire Department
Attention: Mr. John Short

Subject: LISTING OF TRANSFORMERS CONTAINING PCB's

John,

I am sending you a current list of our transformers containing PCB's. Per our conversation on July 11, 1989 you have on file our list of November 1985. This is just a follow-up of a visit from Ohio EPA on July 7, 1989.

	<u>LOCATION</u>	<u>TRANSF. SER.#</u>	<u>SIZE</u>	<u>TYPE OIL</u>
1.	Main Substation	Westinghouse 293707	20/33MVA	53-PPM
2.	Main Substation	Westinghouse PLR47281	7.5MVA	160-PPM
3.	Maintenance Substation	G.E. 11-885865	500KVA	1M-PPM
4.	Baghouse	G.E. H-884638	2000KVA	1M-PPM
5.	Mill Substation	G.E. 557458	200KVA	1M-PPM
6.	Mill Substation	H-887303	1000KVA	1M-PPM
7.	Melt Shop Substation	West. YBR83872	1000KVA	1M
8.	Melt Shop Substation	West. YBR83871	1000KVA	1M
9.	Melt Shop Substation	Penn. 35466-1	18750KVA	35-PPM

/sb

Larry D. Eblin
Maintenance Superintendent

cc:
Scott Conway
Don Distel



MARION STEEL COMPANY

912 CHENEY AVENUE

MARION, OHIO 43302

(614) 383-4011
WATS LINE IN OHIO: 800-282-8022
WATS LINE OUT OF OHIO: 800-848-4941

November 21, 1985

TO: Fire Department Chief
City of Marion
186 S. Prospect St.
Marion, Ohio 43302

Dear Sir:

Beginning December 1, 1985, it is required by EPA ruling dated 7/17/85, article #40CFR761.3 that PCB transformers be listed with the local fire department. It is our desire to comply with that ruling and below you will find information concerning the one PCB transformer that this company has in operation and the 6 PCB capacitors that are in service in the Melt Shop Furnace Transformer Vaults.

<u>TYPE OF FLUID</u>	<u>QTY.</u>	<u>SIZE</u>	<u>MFG.</u>	<u>SERIAL#</u>	<u>GALLONS</u>
Askarel	1	1150KVA	GE	4-887303	156
Askarel	6	1176	West.	-	-
		cu. inch			

The location of this transformer is outside in an enclosed restricted access fenced in area adjacent to the motor control room that is located on the West side of the Rolling Mill building.

Our address is 912 Cheney Ave. The name of the person to contact is Larry Eblin, Jerry Jezierski or Bob Ogden, and the phone # is 383-4011.

We trust this will be helpful in the event of a fire in this vicinity of the Mill.

sb

Sincerely,
Bob Ogden
Bob Ogden
Electrical Engineer

cc:
Larry Eblin
Jerry Jezierski